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BEFORE THE ARIZONA CORPORATION COMMISSION

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2005 APR 21 A 10:15

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
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7 CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF
THE J. RICHARD COMPANY, LLC FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE RESOLD LONG
DISTANCE, RESOLD LOCAL EXCHANGE AND
FACILITIES-BASED LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES IN THE
STATE OF ARIZONA AND PETITION FOR
COMPETITIVE CLASSIFICATION OF
PROPOSED SERVICES.

DOCKET NO. T-04257A-04-0335

PROCEDURAL ORDER
Arizona Corporation Commission
DOCKETED

APR 21 2005

DOCKETED BY

KJ

BY THE COMMISSION:

In Decision No. 67588 (February 15, 2005), the Arizona Corporation Commission ("Commission") granted the application of The J. Richard Company, dba Live Wire Phone Company ("Live Wire") to provide resold long distance, resold local exchange, and facilities-based local exchange telecommunications services within the State of Arizona, subject to certain conditions.

Specifically, Live Wire was ordered to procure and docket proof of a performance bond equal to \$135,000 the earlier of 365 days from the effective date of the Order or 10 days prior to the commencement of service.¹

On March 11, 2005, Live Wire filed a Motion for Alternative ("Motion") by which it requested approval to utilize an irrevocable letter of credit in the amount of \$135,000 as issued by Bank of America in lieu of satisfying the performance bond requirement set forth in Decision No. 67588.

By Procedural Order dated March 22, 2005, Staff was ordered to file a response to Live Wire's Motion on or before April 1, 2005 setting forth its recommendation with regard to Live Wire's request to utilize an irrevocable letter of credit in lieu of the established requirement for

¹ At the hearing, Live Wire requested, and Staff consented to, a reduction in the standard 30 day timeframe for compliance with the bond requirement to 10 days given the company's readiness to provide service.

1 procurement of a performance bond.

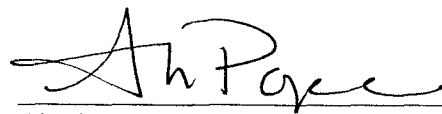
2 On April 1, 2005, Staff filed a Memorandum in this docket indicating that it had reviewed
3 Live Wire's Motion and concluded that the Motion should be granted conditioned upon the
4 following: (1) the Commission shall be able to obtain the full \$135,000 should Live Wire fail to
5 provide telecommunications services in accordance with the Arizona Administrative Code and
6 Arizona Revised Statutes; (2) the irrevocable letter of credit shall not be cancelled without prior
7 Commission approval; (3) Live Wire shall demonstrate that the amount of credit can be increased in
8 an efficient manner; (4) Live Wire shall demonstrate that the irrevocable letter of credit can be
9 renewed in an efficient manner; and (5) Live Wire shall demonstrate that the value of the letter of
10 credit will always be at least \$135,000 even though the FDIC insured limit is \$100,000.

11 Additionally, Staff indicated that in its opinion, granting Live Wire's Motion is not premature
12 in light of the Commission's pending generic bond investigation in Docket No. T-0000J-04-0912
13 based upon the manner in which the irrevocable letter of credit provides comparable consumer
14 protections to that of a performance bond.

15 We disagree with Staff and believe that the granting of Live Wire's Motion would not only be
16 premature but also not in the public interest. Until such time as this Commission formally modifies
17 our policy with regard to the procurement of performance bonds, the requirement of a performance
18 bond is intended not only as a safeguard for customers of companies that collect advances, deposits,
19 or prepayments but also as a means of providing a non-subjective and non-discriminatory means of
20 protecting customers from the inconvenience associated with potential future insolvency of the
21 telecommunications provider.²

22 IT IS THEREFORE ORDERED that Live Wire's Motion is hereby denied.

23 DATED this 21st day of April, 2005.

24
25 
26 AMANDA POPE
27 ADMINISTRATIVE LAW JUDGE

28 ² See Decision No. 66940 (April 21, 2004) and Decision No. 67435 (December 3, 2004).

Copies of the foregoing mailed/delivered
this 14 day of April, 2005 to:


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By:


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Secretary to Amanda Pope